HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.10946 OF 2002

DATED: 24.8.2006

Between:

Pujari Krishnamurthy and others

… Petitioners

and

State of A.P. represented by the Commissioner
Of Endowments and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.10946 OF 2002

ORAL ORDER:

Petitioners claim to be rendering Archakatvam service to Sri Madduleti Narasimhaswamy Devasthanam, R.S. Rangapuram, Dhone Mandal, Kurnool District. According to the petitioners, pattas were granted to their ancestors in 1884 and these were entered in survey and settlement register, R.S. Rangapuram village. During re-survey in 1920, the entry in the settlement register was corrected as "the service inam" favouring the Devasthanam.

The Devasthanam filed O.S.No.15 of 1979 before the II Additional District Judge, Kurnool, for recovery of possession of the suit schedule lands from the Archakas, including the petitioners. The suit was decreed on 27.11.1981. The petitioner and other Archakas were directed to deliver possession of the lands to the Devasthanam. The defendants in O.S.No.15 of 1979, thereupon filed A.S.No.623 of 1982. A learned single judge of this court dismissed the appeal on 6.8.1993. The petitioner and other Archakas

thereupon preferred L.P.A.No.231 of 1993. By the judgment dated 13.11.2000, the Letters Patent Appeal was dismissed. On behalf of the Archakas, a plea was made before the Division Bench in the LPA that the respondents therein be directed to consider the Archakas' request for payment of salaries. The appellants also prayed that they be not ousted from the lands, till their representations for remuneration is considered. The Bench however, in disposing of the LPA, granted a direction that if the appellants make a representation, the respondents shall consider the same within a period of 6 months. The Bench however rejected the petitioners' prayer for a direction that they be not dispossessed before their representations are considered by the department.

In view of the categorical and unequivocal decision in LPA No.231 of 1993, neither the petitioners nor any of the other Archakas are entitled to continue in possession of the Devasthanam lands either pending consideration of their representations by the Endowments Commissioner or other endowment officials or otherwise.

According to the petitioners, only 8 of the 33 persons de facto performing Archakatvam service in the Devasthanam have been included in the Archakatvam cadre of the Devasthanam and are being paid remuneration. The others including the petitioners are continuing to render Archakatvam service without remuneration and are serving the Deity gratis.

As the 3rd respondent has proposed auctioning of the Devasthanam lands for grant of leasehold rights and as, such a course of action would bring dispossess the petitioners from the Devasthanam lands, which they are in occupation of, the writ petition is filed seeking a declaration that the action of the 3rd respondent in conducting the auction of the Devasthanam lands, is illegal and arbitrary and for a direction to continue them in possession.

The relief sought by the petitioners in specie is clearly inconsistent with the clear rejection of a similar relief sought by the petitioners in LPA No.231 of 1993. The petitioners must fail on this singular ground.

The 3rd respondent has filed a counter affidavit stating that the 1st respondent-the Commissioner of Endowments has, by an order dated 16.5.2002 negatived and rejected the petitioners claims for appointing them as Archakas and paying them remuneration and on the ground that there were already 10 Archakas appointed and drawing salaries after fixation of the cadre strength for the Devasthanam. The petitioners however place reliance on a letter dated 22.7.2002 addressed by the 1st respondent to the Government, forwarding a recommendation contained in the Deputy Commissioner of Endowments, Kurnool, report dated 5.3.2002 that the pre-existent procedure be revivified namely; permitting the Archakas to enjoy the lands, collect coconut halves and Dhal mixed rice except plate collections for some more time, in the interests of the institution, as a special case. The Dy.

Commissioner's recommendation forwarded to the State Government by the 1st respondent, has however not been disposed of till date.

Based on the 1st respondent's letter dated 22.7.2002 referred to above, Sri Prasad, learned counsel for the petitioners, contends that the petitioners should be permitted to continue in their lands till the Government considers the recommendations of the Commissioner and Dy. Commissioner, as contained in the Commissioner's letter dated 22.7.2002. This contention urged on behalf of the petitioners is without merit and is not liable to be accepted by this court.

An identical relief sought by the petitioners was negatived in LPA No.231 of 1993. The petitioners cannot reprobate from the consequences of such denial in the LPA. The lands admittedly belong to the Devasthanam. The A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') provides in clear and unequivocal terms that agricultural lands of Devasthanam must be put to lease only by the method of public auction and in extraordinary circumstances, for reasons to be recorded and where such alternative is in the interests of the Devasthanam, may grant lease otherwise than by public auction. No alternative circumstances in the interests of Devasthanam are either pleaded, urged or demonstrated. The Endowment Department and the 3rd respondent are therefore legislatively

ordained and mandated to grant leases of the Devasthanam's lands only by the process of public auction as that would fetch a competitive, transparent and fair return to the Devasthanam on its agricultural lands. The endowment is for the Deity and not for the Archakas. Archakas sustenance is the by-product of the economic well-being of the Devasthanam. The provisions of the Act do not reverse this legislative logic. The relief sought by the petitioners cannot be countenanced or granted.

For the aforesaid reasons, the writ petition must be dismissed and is accordingly dismissed. The petitioners are at liberty to represent directly to the Government of Andhra Pradesh the benevolence of State and the State is at liberty to consider the petitioners' representations, so however that neither the Commissioner of Endowments nor the Government of Andhra Pradesh shall act in a manner detrimental to the interests of the Devasthanam or contrary to the specific and explicit mandate of the Act. No order as to costs.

GODA RAGHURAM, J

Date: 24.8.2006

CVM